

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION BUILDING
100 NORTH UNION STREET
SUITE 370
MONTGOMERY, ALABAMA
December 13, 2002

MEMBERS PRESENT:

Mr. Chester Mallory
Mrs. Jane Mardis
Mr. Ronald Parker
Mr. Wilder Cheney
Mr. Steve Martin

MEMBERS ABSENT:

Mr. R.L. Farmer, Jr.
Mr. Otis Stewart, Jr.
Mr. Mandell Tillman

OTHERS PRESENT:

Mr. J.W. Holland, Jr.
Mrs. Lisa Brooks
Ms. Neva Conway

1.0 With quorum present Mr. Parker, Chairman called the meeting to order at 10:25 a.m. The meeting was held at the RSA Union Building, 100 N. Union Street, 3rd. Floor Conference Room, Montgomery, Alabama.

1.1 The meeting was opened with prayer by Mr. Martin and then the Pledge of Allegiance.

2.0 Members present were Mr. Wilder Cheney, Mr. Ronald Parker, Mrs. Jane Mardis, Mr. Chester Mallory, and Mr. Steve Martin. Members absent were Mr. R.L. Farmer, Jr., Mr. Otis Stewart, Jr. and Mr. Mandell Tillman.

3.0 On motion by Mrs. Mardis and second by Mr. Cheney the regular minutes for November 14, 2002 were approved as written. All in favor, motion carried.

3.2 Ms. Conway discussed the appeal to the Circuit Court on the Christopher Smith's application for the Licensed Real Property Appraiser classification.

Ms. Conway included in the Board books a list of the upcoming hearings that would be held before the Administrative Law Judge.

Ms. Conway informed the Board that the Mark Bryant hearing has been reset for February 21, 2003.

- 4.0 Ms. Conway gave the Board the proposed rule change to Administrative Code 780-X-6 as amendment to all classifications that require experience. On motion by Mrs. Mardis and second by Mr. Cheney the Board voted to accept the proposed rule change as amended to 780-X-6, which would be submitted for an emergency adoption and permanent adoption. All in favor, motion carried.
- 5.0 On motion by Mr. Martin and second by Mrs. Mardis the following applications were voted on as listed. All in favor, motion carried.
- 5.1 **Trainee Real Property Appraiser applications approved:** Jack Couch, Kenneth Fountain, Samuel Huffman, Wheeler Jernigan, Kreg LeMaster, Linda Marx, Gregory Mayo, Shawn Murphy, Matthew Sato, Joshua Tanner.
- 5.2 **State Registered Real Property Appraiser applications approved:** Frederick Crochen.
- 5.3 **Licensed Real Property Appraiser application deferred:** Richard Whatley.
- 5.4 **Certified Residential Real Property Appraiser applications approved:** Christopher P. Bradford, Michael J. Davis. **Application deferred:** Amy M. Holland.
- 5.5 **Certified General Real Property Appraiser applications approved:** Timothy Warner (Recip.)(GA). **Applications deferred:** Mark Boothe, George M. Shanahan.
- 6.0 Mr. Mallory gave the financial report informing the Board that we were 17% into the fiscal year and 18% into budget expenditures. Mr. Holland indicated that last year's budget ended at 99.7%. Mr. Holland reported that the early spike in 0900 noted last month was due to the fact we had paid Risk Management insurance obligations early this year. On motion by Mr. Cheney and second by Mr. Martin the Board voted to accept the financial report as read. All in favor, motion carried.
- 6.1 On motion by Mr. Mallory and second by Mr. Cheney the following education courses and instructor recommendations were approved or denied as indicated:

INTERNATIONAL RIGHT OF WAY ASSOCIATION, IRWA

Renewals:

(LIC) Course 100 – Principles of Land Acquisition – 32 Hours - **Approved**

(LIC) Course 406 – USPAP – 15 Hours – **Approved**

(LIC) Course 900 – Principles of Real Estate Engineering – 16 Hours - **Approved**

All in favor, motion carried.

- 6.2 The Board reviewed the following disciplinary reports, which were included in their books. **AB-00-40:** On November 14, 2002, a Certified General Real

Property Appraiser, signed a Consent Settlement Order in Connection with the appraisal of two tracts of land, which she signed as the primary appraiser. Terms of the consent settlement order include a private reprimand, a \$600 administrative fine, and proof of successful completion of a 15-hour USPAP course with exam and a 40-hour Income Approach Course with exam. The discrepancies identified in the appraisal report are detailed as follows:

Licensee failed to exercise reasonable diligence by not including the comparable land sales data in the report of the work file in support of the land value conclusion. Licensee failed to adequately report sufficient details in the Cost Approach valuation of the proposed residential subdivision. The following deficiencies could result in an inaccurate value estimate: unsupported land value estimate; failure to summarize information sufficient to enable the reader to distinguish between Direct and Indirect development costs; Licensee's inclusion of project interest (\$162,000) identified as Holding Cost Interest on the construction loan vs. the developer's estimate of \$75,000 including closing costs should have been fully explained; failure to summarize the information analyzed and the reasoning that supports Developer's Profit estimated at \$110,950. Licensee failed to report Income Approach adequately by not summarizing and justifying the discounted cash flow analysis. The following deficiencies noted below could cause an error in value estimate: failure to summarize the information analyzed and the reasoning that supports the selling expenses projected at \$5,000 per lot; failure to summarize the information analyzed and the reasoning that supports the 6% discount rate utilized in DCF Analysis; Income Approach summary identified discount rate to be applied over sell-out period as 24% but DCF Analysis was applied using a 6% discount rate. Licensee failed to exercise reasonable diligence in development the subject appraisal assuming an extraordinary assumption that was not disclosed in the report. The appraisal indicates the subject site was accessed by a paved public street when said road was only proposed. Licensee failed to analyze the sales history that occurred within the 3-year period prior to the date of appraisal. The following USPAP Standards (1997 and 1999 Ed.) were violated: 1-1(b), 1-1(c), 1-4(c)(iii), 1-4(c)(iv), 1-5(b)(ii), 2-1(b), 2-1(c), 202(b)(vii), 2-2(b)(ix), and 2-2(b)(xi). Also violated was §34-27-20(a)(7), Code of Alabama, 1975.

AB-00-66: On November 14, 2002, the Board executed an Order against Denise Hall, a Certified Residential Real Property Appraiser, in connection with two appraisals of a condominium unit. Terms of the order include a public reprimand, suspension of supervisory privileges for a period of one year, and a \$1,000 administrative fine. The following USPAP Standards (2000 Ed.) were violated: 1-1(a), 1-1(b), 1-1(c), 1-4(c), 2-2(b)(iii), 2-2(b)(xi), and the Competency Rule.

AB-01-11: On October 10, 2002, a Certified Residential Real Property Appraiser, signed a Consent Settlement Order in connection with the appraisal of residential property, which he signed as the primary appraiser. Terms of the consent settlement order include a private reprimand, a \$1,250 administrative fine, and proof of successful completion of a 15-hour USPAP course with exam. The discrepancies identified in the appraisal report are detailed as follows: Licensee committed a substantial error of omission that significantly affected the appraisal by failing to identify the subject as a manufactured home. Because

subject was appraised as a site built home, all Comparables utilized in the appraisal are site built and appear superior in location, quality and market appeal, the adjustments made in the sales comparison approach grid are inconsistent or completely omitted. Licensee failed to state the purpose and intended use of the appraisal. Licensee failed to state under which option the appraisal report was prepared. The following USPAP Standards (1997 Ed.) were violated: 1-1(a), 1-1(b), 2-1(a), 2-2, 2-2(b)(iii), and 2-5. Also violated was §34-27A-3(b)(2) and §34-27A-20(a)(8), Code of Alabama, 1975.

Mr. Holland discussed with the Board the investigative status charts and noted there were now fewer than 100 complaints on hand and the last time we had under 100 complaints on hand was February 2000. The Board commended all concerned for the progress made in this area.

6.2.1 The Board reviewed Probable Cause Reports AB-00-13 and AB-00-14 (Companion Case). On motion by Mrs. Mardis and second by Mr. Cheney the Board voted that probable cause did exist and to follow investigators recommendation to proceed with formal investigation. All in favor, motion carried.

The Board reviewed Probable Cause Report AB-00-47. On motion by Mrs. Mardis and second by Mr. Cheney the Board voted that probable cause did exist and to follow investigators recommendation to proceed with formal investigation. All in favor, motion carried.

The Board reviewed Probable Cause Report and Recommended Disposition AB-01-21. On motion by Mr. Martin and second by Mr. Cheney the Board voted to defer this item until next month to be rewritten. All in favor, motion carried.

The Board reviewed Probable Cause Reports AB-02-34. On motion by Mr. Martin and second by Mrs. Mardis the Board voted that probable cause did exist and to follow the investigators recommendations to proceed with formal investigation. All in favor, motion carried.

The Board reviewed Probable Cause Reports AB-02-58 and AB-02-59 (Companion Case). On motion by Mr. Martin and second by Mrs. Mardis the Board voted that probable cause did exist and to follow the investigators recommendations to proceed with formal investigation. All in favor, motion carried.

The Board reviewed Probable Cause Reports AB-02-60 and AB-02-61. On motion by Mr. Mallory and second by Mr. Martin the Board voted that probable cause did not exist and to follow investigators recommendation and dismiss. All in favor, motion carried.

The Board reviewed Probable Cause Report AB-02-74. On motion by Mrs. Mardis and second by Mr. Mallory the Board voted that probable cause did exist not exist and to follow investigators recommendation and dismiss. All in favor, motion carried.

The Board reviewed Probable Cause Report AB-02-86. On motion by Mr. Mallory and second by Mrs. Mardis the Board voted that probable cause did exist not exist and to follow investigators recommendations and dismiss. All in favor, motion carried.

The Board reviewed Probable Cause Report and Recommended Disposition AB-02-88 and AB-02-89. On motion by Mr. Mallory and second by Mr. Martin the Board voted that probable cause did exist. All in favor, motion carried. On motion by Mr. Mallory and second by Mr. Martin the Board voted to follow investigators recommendation and issue a Letter of Warning. All in favor, motion carried.

The Board reviewed Probable Cause Report AB-02-95 and AB-02-96. On motion by Mr. Martin and second by Mr. Cheney the Board voted that probable cause did not exist and to follow investigators recommendations and dismiss. All in favor, motion carried.

The Board reviewed Probable Cause Report AB-02-103. On motion by Mr. Martin and second by Mr. Cheney the Board voted that probable cause did exist and to follow investigators recommendation to proceed with formal investigation. All in favor, motion carried.

The Board reviewed Probable Cause Report and Recommended Disposition AB-02-113, AB-02-114, AB-02-115. On motion by Mr. Cheney and second by Mr. Mallory the Board voted that probable cause did exist. All in favor, motion carried. On motion by Mr. Cheney and second by Mr. Mallory the Board voted to issue a Letter of Counsel. All in favor, motion carried.

The Board reviewed the Request for Board Initiated Investigation AB-02-120. On motion by Mr. Martin and second by Mrs. Mardis the Board voted to initiate formal investigation. All in favor, motion carried.

6.2.2 The Board reviewed Anonymous Complaint AB-02-121. On motion by Mrs. Mardis and second by Mr. Cheney the Board voted to initiate Board investigation. All in favor, with Mr. Martin abstaining, motion carried.

6.2.3 The Board reviewed Consent Settlement Order AB-01-30, AB-02-14, AB-02-35, AB-02-36, AB-02-37, and AB-02-85. On motion by Mr. Cheney and second by Mrs. Mardis the Board voted to reject the settlement order due to not being severe enough and to set for a hearing, or Ms. Conway may renegotiate for a six month suspension plus what was already stated in settlement order. All in favor, motion carried.

The Board reviewed Consent Settlement Order AB-02-39. On motion by Mr. Cheney and second by Mr. Mallory the Board voted to approve as stated. All in favor, motion carried.

At 12:05 p.m. the Board entered Executive Session to discuss the recommendation, findings of fact and conclusion of law of the Administrative Law Judge in the Richard D. Israel case (AB-01-28 and AB-02-05).

At 12:25 p.m. the Board went back into Regular Session. On motion by Mrs. Mardis and second by Mr. Cheney the Board voted to accept the Administrative Law Judges recommendations of findings of fact and conclusion of law, to reject the Administrative Law Judge's recommendation of discipline and to impose the following discipline: 12 month suspension of his license beginning immediately, take a 15-Hour USPAP course with exam within the year and submit a log to present to Board for one year after reinstatement for samples to be randomly selected by Board for USPAP compliance. Should this individual appraise during the suspension of his license his license would be revoked. All in favor with Mr. Martin abstaining, motion carried.

- 6.3 No reciprocal agreements to report since last meeting.
- 6.4 The following reciprocal license was issued since last Board meeting: Timothy Warner (G)(GA).
- 7.0 The temporary permit report was provided to the Board for their information.
- 8.0 Mr. Holland informed the Board that as of December 12, 2002 93% of the appraisers have renewed their licenses.

Mr. Holland included in the Board books Appraisal Foundation correspondence for their information.

Mr. Holland informed the Board that Mrs. Lisa Brooks, Executive Secretary has been offered a part-time clerical position with the Alabama Chapter of the Appraisal Institute. Mr. Holland included in their Board books the letter that he has submitted to the Ethics Commission for a Formal Opinion. The Board wished her luck.

Mr. Holland included in the Board books a copy of the new Appraisal Foundation publication The State Regulator Update for their information. Some AARO jurisdictions see this as being an improper infringement on their authority.

Mr. Holland informed the Board that the agencies new investigative vehicle a 2003 Chevrolet Blazer has been delivered.

- 9.0 Meeting adjourned at 12:40 p.m.

Sincerely,

Lisa Brooks
Executive Secretary

Lb

APPROVED: _____
Ronald Parker, Chairman

